IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICITON

WRIT PETITION NO.6504 of 2006

M/s.Cipla Limited .. Petitioner.

Versus

The Union of India & Ors. .. Respondents.

Mr.V. Shridharan with Mr.Prakash Shah i/by PDS Legal for the petitioner.

Mr.Y.R. Mishra with Mr.D.A. Dubey for respondent Nos.1 to 3.

Mr.Nirupama Kez for respondent No.4.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 22ND NOVEMBER, 2006.

P.C. :

1. Heard Mr.Shridharn in support of this petition. Mr.Mishra appears for the respondents.

2. Rule. Rule made returnable forthwith.

3. The order passed by the Customs, Excise and Service Tax Appellate Tribunal dated 3rd August, 2006 in appeal arising out of the order-in-original dated 28th February, 2006 is challenged in the present petition. The question involved in the matter is with respect to the manner in which the assessable value of

petitioners product is arrived at and the dispute is regarding the element of excise duty deductible from the Maximum Retail Price. The Appellate Tribunal has directed the petitioner to deposit an amount of Rs.15,00,000/- for the waiver of the balance amount of duty and penalty imposed against the petitioner.

4. It is the case of the petitioner that in similar cases, pre-deposit has not been insisted upon. In any case Mr.Sridharan, on instructions, stated that the petitioners are agreeable to give bank guarantee of the same amount. Mr.Mishra, on instructions from one Mr.D.P. Gor, Superintendent of Excise who is present in Court, has stated that the respondents have no objection if the bank guarantee of any nationalised bank of an equal amount is given and the same should be kept alive till the hearing and final disposal of the appeal.

5. In view of the statements of both the counsel, we modify the order passed by the Appellate Tribunal and permit the petitioner to give bank guarantee of any nationalised bank to the tune of Rs.15,00,000/- which should be kept alive till the hearing and final disposal of the appeal.

6. Mr.Sridharan makes further request that a

period of four weeks be granted for giving the bank guarantee. The bank guarantee should be given in that period. The appeal will proceed after the bank guarantee is given.

7. Rule is made absolute in terms of this order with no order as to costs.

8. The writ petition stands disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)